

**AGREEMENT
BETWEEN SHELBY COUNTY GOVERNMENT
AND
THE SHELBY COUNTY HEALTH CARE CORPORATION D/B/A THE REGIONAL
MEDICAL CENTER AT MEMPHIS
FOR
GASOLINE AND FUEL**

This Agreement ("Agreement"), entered into on the ____ day of _____, is made between and among **Shelby County Government**, by and through its Fleet Services Division, hereinafter referred to as the "County" and **Shelby County Health Care Corporation, d/b/a The Regional Medical Center** ("The MED").

RECITALS

WHEREAS, The MED is an acute care and teaching hospital duly licensed by the State of Tennessee, and is a duly organized, validly existing not-for-profit corporation in good standing under the laws of the State of Tennessee, and exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

WHEREAS, The MED serves as a teaching hospital and operates exclusively for charitable, educational, and scientific purposes.

WHEREAS, The MED's governing body is appointed by the Shelby County Mayor and that governing body is approved by the County Commission.

WHEREAS, Shelby County Government is a municipality in Shelby County, Tennessee.

WHEREAS, the parties, in consultation and cooperation with themselves, desire to enter into this Agreement for The MED's advantage and benefit, in order for The MED to purchase gasoline and diesel fuel for its vehicle fleet from the County; and

NOW therefore, the parties agree as follows:

1. Authority and Purpose.

It is the purpose of this Agreement for The MED to Purchase fuel from Shelby County Government in order to receive Shelby County Government's discounted fuel rate.

2. Administration of Agreement

The parties each shall designate a representative who is hereby delegated all power and responsibility for the management of this Agreement. Either party may change the representative from time to time, upon no less than seven (7) days advance written notice to the other party. Each representative shall communicate with the other representative to effectuate the terms of this Agreement.

3. **Scope of Work, Compensation and Term.**

3.1 Term. From the execution of this Agreement through June 30, 2010 ("Initial Term"), the parties agree that the County will make available fuel as desired by The MED at the regular fuel stations operated by the County. However, the parties by mutual written agreement may extend this agreement for a period of 1 year. During the Initial Term or any subsequent renewal term, either party may terminate the agreement, without cause, by giving the other party at least thirty (30) days' prior written notice of that party's intention to terminate. In the event of termination under any circumstances, the County shall be paid for all product(s) provided prior to the Termination Date and all keys and other property connected to this contract returned.

3.2 Option to Purchase. The County agrees to provide The MED with the option to purchase fuel at any of the County fuel stations at the cost incurred by the County plus an adjustment for administrative and operational costs calculated at the time of purchase which at the time of this Agreement averages \$0.25 per gallon.

3.3 Method of Purchase. The County will provide The MED with keys to obtain fuel. Said keys shall be assigned to specific vehicles and used to purchase fuel only for the key's specifically assigned vehicle. The key shall remain with its assigned vehicle at all times. The MED will provide a list of vehicles and identification information for same including the year, make, model, color, vehicle identification number and license tag number. By furnishing this information, The MED certifies that each identified vehicle authorized to purchase fuel through the County under this Agreement is owned by The MED and used in connection with The MED's business purpose.

3.4 List of Authorized Users. The MED agrees to furnish a list of persons authorized to use the fuel keys to purchase fuel from the County. For each authorized user, The MED will furnish the name of the individual and the last six digits of the person's social security number. The County will use this number to set up the authorized person's user identification. It is the responsibility of The MED to ensure that only authorized users purchase this fuel. Additionally, it the responsibility of The MED to monitor the keys. All charges associated The MED's assigned keys will be billed to The MED and The MED expressly agrees to these charges.

3.5 Lost or Stolen Keys. The MED must report lost or stolen keys to the County as soon as practicable. The County will deactivate the lost or stolen key within 48 hours of receiving the report. Charges made during this window will be assessed to The MED. The County will issue a replacement key within 2 regular business days. The cost for a replacement key shall be the cost to the County plus the cost to reactivate, which at the time of this Agreement is currently \$7.50. This cost will be included in the monthly billing statement for the month issued.

3.6 Billing. The County shall submit invoices to The MED on a monthly basis for fuel usage during the preceding month. Payments shall be submitted to the Office of Fleet Management, to the attention of Bill Cunningham. The MED shall pay such invoices, within thirty (30) days of its receipt of said invoices.

3.7 Availability. Barring unforeseen circumstances or Acts of God, this fuel is currently available twenty four (24) hours a day seven (7) days a week. The County, at its sole discretion, reserves the right to change or otherwise adjust the hours of availability and may do so without notice. This fuel is offered as a service to The MED to pass along the County's cost savings. The County at no point guarantees the availability of fuel. In the event of an emergency, the County Reserves the right to restrict fuel service to core services. The determination of what constitutes an emergency and what constitutes a core service for the purpose of restricting fuel will be at the sole discretion of the County, its administrators, and/or officials.

4. **Indemnification.**

To the extent permitted by law and/or subject to the provisions of the Tennessee Governmental Tort Liability Act as self-insured entities, the parties shall indemnify and hold each other, and its directors, board members, officers, administrators and employees harmless, from any claims and expenses, damages or losses either may suffer as a result of any claims made under, in the administration of, or regarding the validity of this Agreement or the effect of this Agreement. The MED and County mutually agree to immediately notify the other of any claim or suit made or filed against it regarding any matter resulting from or relating to this Contract and will cooperate, assist and consult with the other in the defense or investigation thereof.

5. **Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns; provided, this Agreement shall not be assigned or otherwise transferred to a third party without the prior written consent of the other party hereto.

6. **Notices.** All notices or other communications that are required or permitted herein shall be in writing and shall be sufficient if delivered personally or sent by certified mail, postage prepaid, return receipt requested, to the parties at their addresses set forth below which may be changed from time to time by notice to the other party:

COUNTY: Shelby County Government
Fleet Services
6200 Haley Road
Memphis, TN 38134
Attn: Bill Cunningham

and
Shelby County Government
Contracts Administration
160 North Main Street, Suite 550
Memphis, TN 38103

THE MED:

Attn: Charles Franklin
The Regional Medical Center at Memphis
877 Jefferson Avenue
Memphis, TN 38103

7. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the statutory and decisional laws of the State of Tennessee and under the exclusive jurisdiction of the courts of Shelby County.
8. **Entire Agreement.** This Agreement constitutes the entire Agreement of the parties with respect to the subject matter hereof. All prior agreements, representations, statements, and negotiations are hereby superseded. This Agreement may be amended only by a writing executed by both parties. No delay or failure of the County to enforce any right or provision of this Agreement or in any document executed pursuant hereto shall operate as a waiver or relinquishment of the County's right to subsequently enforce and compel strict compliance with such provision or any other provision herein or in any document related hereto.
9. **GTLA.** The MED and the County are both governed by the terms of the Tennessee Governmental Tort Liability, T.C.A. 29-20- 101 et seq. ("GTLA"), which limits the liability of both entities. The MED and the County each limit indemnification if any is expressly agreed to, to the maximum amount of liability established by the GTLA.
10. **Invoices:** All invoices hereunder shall be due thirty (30) days after receipt thereof and directed to the individual identified in the Notice provision above or as otherwise directed in writing.
11. **Assignment:** This agreement shall not be assigned by either party without the express written permission of the other party.
12. **Audit Clause:** County shall maintain documentation for all charges against The MED under this Contract. The books, records, and documents of County, insofar as they relate to this Agreement shall be maintained for a period of three (3) years from the date of final payment, and shall be subject to audit, at any reasonable time and upon reasonable notice, by The MED or its duly authorized representative(s). The books and records shall be kept in accordance with acceptable accounting principles.
13. **Amendment:** This Agreement may only be amended in writing signed by the parties hereto.
14. **Nondiscrimination:** The parties hereby agree, warrant, and assure compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination on the

grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The MED shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

15. **Authorization:** All parties hereby warrant that the undersigned is authorized to bind the respective entity to the terms of this Contract.

16. **Effective Date.** This Agreement shall be executed in triplicate originals, and the Effective Date shall be the date on which all required signatures are affixed to this instrument. All requirements for periodic meetings or action shall date from the Effective Date of this Agreement.

17. **Subject to Funding.**
This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the Term hereof, then this Contract will be terminated.

18. **Termination.**
This Contract may be terminated by either party by giving reasonable written notice to the other, before the effective date of termination (the "Termination Date"). In the event of such termination, the County shall be paid for all product(s) provided prior to the Termination Date and all keys and other property connected to this contract returned.

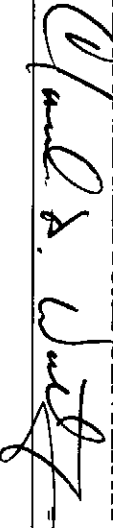
19. **Disclosure of Data, Reports and Other Information.**
Notwithstanding anything to the contrary contained herein or within any other document supplied to County by The MED, The MED understands and acknowledges that County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to County by The MED is subject to being divulged as a public record in accordance with the laws of the State of Tennessee. Additionally, all books of account and financial records that are specific to this Contract may be subject to audit by the Director of Administration and Finance of Shelby County Government and/ or its designated appointee, and all records pertaining to the subject matter contained herein must be preserved by CONSULTANT for a period of three (3) years from the date of final payment and for such period, if any, as is required by all applicable laws.

20. **Disclaimer.**
The County makes no claim or warranties of the fuel provided under this contract. The MED will be allowed to purchase the fuel at the County's designated stations as a matter of convenience to The MED and so The MED is able to benefit from the County's bulk price. The County makes no guarantees regarding said fuel and The MED agrees to use the fuel at its own risk. Additionally, The MED may enter the premises to purchase said fuel but entry onto these locations is also at The MED's own risk. The County does not monitor or man these stations and makes no warranties regarding the safety of the

premises or the equipment used in connection with the purchase of the fuel and specifically disclaims any responsibility to The MED, its employees, agents, or assigns under any and all circumstances to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties, by and through their duly authorized representatives, have on this ____ day of _____, 2009.

**SHELBY COUNTY HEALTH CARE CORPORATION
D/B/A THE REGIONAL MEDICAL CENTER AT MEMPHIS**

BY: 

NAME: Claude. D. Watts, Jr.

TITLE: Chief Executive Officer

DATE: 8/28/09

SHELBY COUNTY GOVERNMENT:

APPROVED AS TO FORM
AND LEGALITY:

SHELBY COUNTY GOVERNMENT

Contract Administrator
Assistant County Attorney

A C WHARTON, JR., MAYOR

Standard Parking:

MD9, MD16, MD17, MD18, MD19
James Whitaker 90-0628
Vera Ridic 17-1869
Cheryl Morris 35-5091
Irwin Bell 68-1196
Faheem Khan 74-2855

Materials Management: Charles Blayde

MD14

Baxter McKnight PRI 96-7381

Patrick Brooks SEC 25-8822

Charles Blayde Extreme Circumstances Only 17-9139

In-Patient Rehab:

MD12

Jermaine Whitley 57-7815

Wound Care Clinic

MD13

Virginia Bowers 21-4286
Troy Merritt 23-4188

Security Dept.

MD2, MD3, MD4, MD6, MD15

Jamie Conley - 13-1630
David Hawes - 82-4440
Eugene Gatewood – 02-1052
Diesha Binion - 37-9855
Allen Hardrick - 23-5666
Daniel Henderson – 69-7558
Carolyn Merritt - 80-9476
Tenoka Driver - 22-4725
Daryl Mason - 59-0360

Maintenance/Engineering

MD21

Mike Adams – 92-1980
Archie Stewart – 78-6967
Gary Daniel – 21-7741
Ron Eady – 82-3336
Rex Hibbard – 50-8719
Joe Haywood – 27-8744

GRATUITY DISCLOSURE FORM

Shelby County Ethics Commission

***INSTRUCTIONS:** This form is for all persons receiving any Shelby County Government contract, land use approval or financial grant money to report any gratuity that has been given, directly or indirectly, to any elected official, employee or appointee (including their spouses and immediate family members) who is involved in the decision regarding the contract, land use approval, or financial grant of money.*

1. NAME

Shelby County Health Care Corp., d/b/a The Regional Medical Center at Memphis

2. DATE OF GRATUITY

N/A

3. NATURE AND PURPOSE OF THE GRATUITY

N/A

4. NAME OF THE OFFICIAL, EMPLOYEE, APPOINTEE, OR FAMILY MEMBER WHO RECEIVED THE GRATUITY

N/A

5. NAME OF THE PERSON OR ENTITY THAT PROVIDED THE GRATUITY

N/A

6. ADDRESS OF THE PERSON OR ENTITY THAT PROVIDED THE GRATUITY

N/A

7. DESCRIPTION OF THE GRATUITY

N/A

8.

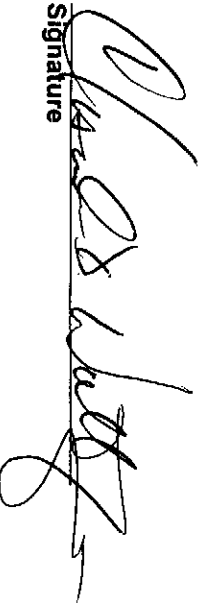
COST OF THE GRATUITY (If cost is unknown and not reasonably discernible by the person giving the gratuity, then the person giving the gratuity shall report a good faith estimate of the cost of the gratuity.)

N/A

9.

The information contained in this Gratuity Disclosure Form, and any supporting documentation or materials referenced herein or submitted herewith, is true and correct to the best of my knowledge, information and belief and affirm that I have not given, directly or indirectly, any gratuity to any elected official, employee or appointee (including spouse and immediate family members) that has not been disclosed and I affirm that I have not violated the provisions of the Shelby County Government Code of Ethics.

Signature



Date

5/8/05

Claude D. Watts, Jr.

Print Name

A copy of your completed form will be placed on the Shelby County Internet website.